

**A STUDY ON IMPLEMENTING THE CORONIAL SYSTEM IN MALAYSIA UPON
CUSTODIAL DECEASED OF THE DETAINEE.**

By

Hazwani binti Zahari (2011614078)

Mohammad Muzammil bin Hairiri (2011654656)

Nadia Shazwani binti Hassan (2011633324)

Nursyafiqah binti Abidin (2011603068)

Submitted in Partial Fulfillment of the Requirements for the

Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

December 2013

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where references has been made to the work of others.

Acknowledgement

This research project has been carried out by a team consisting the four of us which are Hazwani binti Zahari, Mohamad Muzammil bin Hairiri, Nadia Shazwani binti Hassan and Nursyafiqah binti Abidin. The success and final outcome of this project required a lot of guidance and assistance from many people and we are said to be extremely fortunate to have this along the completion of our project work. All the guidance and assistance that had been given to us, we would never forget to thank each and everyone of them. First and foremost, we would like to thank our last semester's lecturers for the subject of Legal Research Methodology, Dr Hartini binti Saripan and Dr Haswira Nor Mohamad Hashim for giving us some guidelines in preparing the project paper and also for their approval of our proposal. Moreover, we owed profound gratitude to our supervisor, Associate Professor Rohani binti Md Shah who has been very supportive, patient and also giving us academic assistance throughout the work. We also heartily thank to lawyers for liberty, Mr Eric Paulsen for giving us his time, his willingness to be interviewed and providing us with some suggestions for our research. We are thankful to and felt fortunate enough to get constant encouragement and moral support from our family members and also our circle of friends starting from the beginning until the completion of this research.

Abstract

The importance of having the coronial system in Malaysia is to uphold the human rights as we all know the human rights are the essential rights and can become a sensitive issue to every country in this world. The objectives of this research are to provide an avenue to the family members of the deceased detainee to seek justice, to investigate the importance and the need of coronial system in our country and also to recommend the coronial system in Malaysia. Coronial system is an ancient system that has been practiced by many countries up until today. By having the independent coroner court, it will give justice to the deceased who died during detention or in custody of the state, particularly in the police as well as other enforcement agencies' custody. It also gives the satisfaction to the family of the deceased and also to the public who question the manner of the death of the deceased. Besides that, by having the independent court in our country it will ensure that every custodial death will be investigated in a thorough and proper manner. This research further seeks guidance from several notable countries such as the United Kingdom, Australia, Germany, New Zealand, England and Wales, which practice the coronial system in order to initiate the same system in Malaysia.

Acknowledgement

Abstract

Table of Cases

Legislation

Chapter 1	Research Proposal	
	1.0 Introduction	1
	1.1 Background Study	5
	1.2 Research Problem	6
	1.3 Research Objective	7
	1.4 Research Question	8
	1.5 Research Method	9
	1.6 Scope	12
	1.7 Limitation	14
	1.8 Significance	16
	1.9 Literature Review	20
	1.10 Research Plan	30
Chapter 2	An Avenue to Seek Justice for the Deceased	
	2.0 Introduction	31
	2.1 Life & Personal Liberty	32
	2.1.1 Meaning of the Word "Person"	33
	2.1.2 Meaning of the Word "Life"	33
	2.1.3 The Meaning of the Word "Liberty"	34

2.1.4	The meaning of the word “Law” in Accordance to Coronial System	35
2.1.5	Custody, Death & Custodial Death	36
2.1.6	The Right to life under the Malaysian Federal Constitution	38
2.2	Fundamental Rights of Deceased Family	40
2.2.1	Right of Disclosure of Documents	40
2.2.2	Right of Participation in the Inquest	43
2.2.3	Right in Final Arrangement of the Deceased	45
2.2.4	Right to Legal Representation	47
2.2.5	Issues of Interested Person	49
2.3	Conclusion	52
Chapter 3	Analyzing Coronial System in Malaysia	
3.0	Introduction	53
3.1	Reviewing the Process of Death Investigation	53
3.1.1	The inquest procedure	55
3.1.2	Post mortem investigation	58
3.1.3	Prosecution and Commencement of Trial	61
3.2	Conclusion	62